

REMARKS

Claims 1–17 and 19–26 are pending in the present application.

Claims 1 and 4 were amended here.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 103 (Obviousness)

Claims 1 and 6–11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,792,286 to *Bharath et al* in view of U.S. Patent No. 5,490,252 to *Macera et al*. Claims 2 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bharath et al* in view of *Macera et al* and further in view of U.S. Patent No. 5,995,851 to *Lim*. Claims 3–5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bharath et al* in view of *Macera et al* and further in view of U.S. Patent No. 5,603,095 to *Uola*. Claims 12–13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bharath et al* in view of *Macera et al* and further in view of U.S. Patent No. 6,836,546 to *Willer*. Claims 14–15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bharath et al* in view of *Lim* and further in view of *Macera et al*. Claims 14–17 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bharath et al* in view of *Uola* and further in view of *Macera et al*. Claims 25–26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bharath et al* in view of *Uola* and *Macera et al* and further in view of *Willer*. These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-125 (8th ed. rev. 5 August 2006). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Independent claims 1 and 14 each recite that the subscriber access device is mounted on the exterior of the subscriber premises. Such a feature is not enabled by the cited references. In order to anticipate a claim, the prior art reference must enable those skilled in the art to practice the claimed invention. MPEP § 2121.01, page 2100-55. It is insufficient to merely name or describe the *desired* subject matter if that subject matter cannot be produced from the teachings of the prior art reference without undue experimentation. The sole basis in *Bharath et al* for inferring that the WSU 110/310 is mounted on the exterior of a subscriber premises is the depiction in Figures 1 and 3. *Bharath et al* contains no description in the text of the WSU 110/310 actually being mounted on

the exterior of “subscriber station” 115/315, nor even any description of the “subscriber station” 115/315 as a building. Nothing in *Bharath et al* suggests that WSU 110/310 was deliberately depicted as being mounted exterior to a building. *Bharath et al* contains no description of mounting the WSU 110/310 on the roof of a building. The apparently accidental depiction of WSU 110/310 outside the outline representing a building does not enable mounting of a subscriber access device on the exterior of a subscriber premises as required by the claims.

Independent claims 1 and 14 each recite that the subscriber access device includes a removable module for communicating with a data processing device inside the subscriber premises. Such a feature is not found in the cited references, taken alone or in combination. The portion of *Macera et al* cited as teaching removable modules reads:

The FPSE can be complemented by multiple, dedicated, high speed RISC processors for managing packet movement in and out of the FPSE, forwarding routed packets, and monitoring and controlling the overall system operation. Referring to FIG. 3, the system bus 43 (and its redundant duplicate 45, which preferably is provided) can connect various networks 58 to various electronic processing modules 60. The electronic processing modules 60 might include the FPSE 62, a Maintenance & Administration Processor (MAP) 64 which can include one or more of the RISC processors, and a Router Engine 66 which also can include one or more RISC processors. The MAP 64 and the Router Engine 66 are described later, but briefly, in the disclosed embodiment, the MAP 64, the Router Engine 66, and the FPSE 62 are contained on one or more “cards” or modules which are insertable/removable from a backplane of the BES. The networks 58 might include an Ethernet LAN 68, an FDDI 70, a Token Ring LAN 72, a T1/E1 WAN 74, and a DS3 WAN 76. As shown in FIG. 3, the networks are connected to the bus 43 of the BES via network interface modules 78, 80, 82, 84, and 86. Each network interface module can be a “card” or module which is insertable/removable from a backplane of the BES.

Macera et al, column 5, line 66 through column 6, line 21. Thus *Macera et al* teaches use of insertable/removable cards in a broadband enterprise switch (BES). However, *Macera et al* does not teach that the BES is located on the exterior of a subscribers premises. Nor does *Bharath et al* teach that a backplane adapted to receive insertable/removable cards is employed within the subscriber access device 310. Neither *Bharath et al* nor *Macera et al* provide any basis for a reasonable expectation of success in employing the backplane architecture of *Macera et al* on the exterior of a subscribers premises, subject to dust and weather conditions.

Independent claim 1 recites that the removable module(s), when present, provide at least one of additional voice lines and an additional data communications path – that is, in addition to the voice line provided by the voice interface integral to the subscriber access device or the data communications path provided by the data interface integral to the subscriber access device. Such a feature is not found in the cited references. *Macera et al* teaches that ALL data communications paths are connected by means one of the removable network interface modules 78, 80, 82, 84, and 86 connected to bus 43, with no integral voice or data communications interface as recited in the claims. No motivation or incentive has been identified for selectively merely adding removable interfaces – in addition to an integral interface – rather than replacing an integral interface with all removable interfaces as taught by *Macera et al*.

Therefore, the rejection of claims 1–17 and 19–26 under 35 U.S.C. § 103 has been overcome.

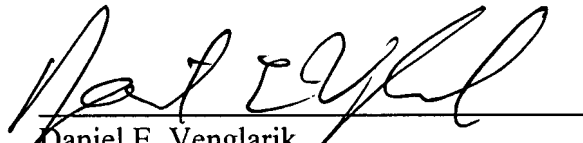
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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